



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office

MEMO ENDORSED

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BY ECF

Hon. Kenneth M. Karas
United States District Court Southern District of New York
The Hon. Charles L. Briant Jr. Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Dear Judge Karas:

Re: *U.S. Equal Employment Opportunity Commission v. Wilmington Trust Corporation*, No. 17 Civ. 05077 (KMK)

Dear Judge Karas,

Plaintiff Equal Employment Opportunity Commission (“EEOC”) respectfully submits this letter motion seeking a judicial order to cure a breach of the court-ordered Consent Decree.

The Consent Decree required Defendant to issue IRS form W2 for each backpay award and IRS form 1099 for each compensatory damages award in this case. Consent Decree ¶ 11(e)-(f), ECF No. 88. Additionally, “Upon issuing each of these . . . W2 forms and 1099 forms, Defendant shall provide certification thereof to the EEOC and include with the certification . . . copies of . . . [the] IRS forms.” *Id.* ¶ 11(g). On January 7, 2020, EEOC provided Defendant with updated mailing addresses for several claimants. On January 30, 2020, EEOC notified Defendant of a breach of the Decree: that Defendant had apparently mailed at least some of the tax forms to outdated addresses¹ and that it had not sent copies of any tax forms to EEOC upon issuance. The Consent Decree allowed Defendant fourteen days (until February 13, 2020) to cure its breach. Consent Decree ¶ 26.

Following numerous requests from EEOC, it took Defendant two weeks to produce copies of the original W2s and 1099s, which confirmed the use of outdated addresses. Thereafter, Defendant corrected the misaddressed W2s. However, Defendant still has not resent five misaddressed 1099s.

Based on Defendant’s assurances that it was working diligently and urgently to resolve the breach, including, most recently, that it anticipated a full resolution by the end of last week, EEOC postponed seeking judicial intervention as long as possible. However, it is clear that without a Court-ordered deadline (or at least a motion for one), there will be no date certain for the claimants to receive these 1099s. The unnecessary delay is unfair to the claimants, who are

¹ Some were received by claimants through mail forwarding and some were never received.

waiting to complete their own tax returns and/or consult with an accountant. Defendant is one of the largest institutions in America, by fiduciary assets. There is no legitimate reason (and Defendant has not suggested one) for it taking 26 days and counting to resend five forms. Therefore, EEOC respectfully requests that the Court order Defendant to immediately resend the misaddressed 1099 forms and provide copies of all remaining tax forms to EEOC.² Defendant has the resources and has had the time to get this done. 11

Sincerely,

/s/ Liane T. Rice
Liane T. Rice
Trial Attorney

Granted.
So ordered.
KMK
2/26/20

² EEOC requires copies of the corrected 1099s and one corrected W2.